

REMARKS

The original declaration contained a clerical error in listing the declaration as a continuation-in-part. A supplemental declaration is submitted herewith (Attachment A).

Claims 20-46 have been canceled.

Claims 1-19 remain pending in the application. Of these, claims 1, 3 and 9 are currently amended and claims 4, 7, 11, 12, 15 and 18 are withdrawn from consideration. Upon the allowance of a generic claim, Applicant respectfully requests consideration of the withdrawn claims.

Claims 1-3, 5, 6, 8-10, 13, 14, 16, 17 and 19 are rejected in various combinations under 35 U.S.C. §102(b) and under 35 U.S.C. §103(a) based on Jackson U.S. 5,174,284 (Jackson '284). Jackson '284 discloses a bite block 20 in which a patient's teeth 52 and tongue 53 are in contact with jaws 27 and 30 (see col. 3, lines 42-46 and Figs. 11A and 11B). Jackson '284 teaches that this contact is desirable so that the teeth slip down the jaws to firmly and securely position the bite block in place and hold the tongue firmly in a depressed position to prevent the patient from displacing the bite block from the mouth.

Claims 1 and 9 have been amended in view of this rejection to define an apparatus in which a bite block includes jaws positioned to be free of contact with the patient's teeth and tongue in both the open and closed positions. As Jackson '284 clearly teaches that contact with the teeth and tongue is desirable, the reference teaches away from the claimed subject matter. Applicant therefore believes claims 1 and 9, as amended, are allowable over the cited reference. Claims 2-8 depend from claim 1 and claims 10-19 depend from claim 9 and are therefore also believed to be allowable over the cited reference. Claim 3 has been amended to correct a typographical error.

Reconsideration in view of the foregoing amendments and remarks and allowance of claims 1-19 is respectfully requested.

Respectfully Submitted,

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CURON/17412-CIP 10/01731 AMENDMENT C

Enclosures: Amendment Transmittal Letter
 Attachment A
 Formal Drawings
 Return Postcard